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*Proposed Counsel to the Debtor
and Debtor-in-Possession*

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

| | | |
|-------------------------------|---|-------------------------|
| In re: | § | Chapter 11 |
| | § | |
| EVENTIDE CREDIT ACQUISITIONS, | § | Case No. 20-40349-elm11 |
| LLC, | § | |
| Debtor. | § | |
| | § | |

**DEBTOR'S APPLICATION FOR ORDER AUTHORIZING THE
EMPLOYMENT AND RETENTION OF FORSHEY & PROSTOK, LLP
AS ATTORNEYS FOR THE DEBTOR AS OF THE PETITION DATE**

**NO HEARING WILL BE HELD ON THIS APPLICATION
UNLESS A WRITTEN RESPONSE IS FILED WITH THE
CLERK OF THE UNITED STATES BANKRUPTCY COURT
AT 501 W. 10TH STREET, ROOM 147, FORT WORTH,
TEXAS 76102 BEFORE CLOSE OF BUSINESS ON
MARCH 3, 2020, WHICH IS AT LEAST 21 DAYS FROM THE
DATE OF SERVICE HEREOF.**

**ANY RESPONSE SHALL BE IN WRITING AND FILED
WITH THE CLERK, AND A COPY SHALL BE SERVED
UPON THE UNDERSIGNED COUNSEL FOR MOVANT
PRIOR TO THE DATE AND TIME SET FORTH HEREIN. IF
A RESPONSE IS FILED A HEARING MAY BE HELD WITH
NOTICE ONLY TO THE OBJECTING PARTY.**

**IF NO HEARING ON THIS APPLICATION IS TIMELY
REQUESTED, THE RELIEF REQUESTED SHALL BE
DEEMED TO BE UNOPPOSED, AND THE COURT MAY
ENTER AN ORDER GRANTING THE RELIEF SOUGHT.**

TO THE HONORABLE EDWARD L. MORRIS, UNITED STATES BANKRUPTCY JUDGE:

Eventide Credit Acquisitions, LLC (the “Debtor”), as debtor in possession, files this Application (the “Application”) pursuant to section 327 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as amended (the “Bankruptcy Code”), and Rule 2014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) for entry of order authorizing the employment and retention of Forshey & Prostok, LLP as Attorneys for the Debtor as of the Petition Date. In support of this Application, the Debtor respectfully states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

2. On January 28, 2020 (the “Petition Date”), the Debtor filed a voluntary petition in this Court for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”).

3. The Debtor continues to manage and operate its business as a debtor-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in this case.

4. On February 7, 2020, the United States Trustee appointed the Official Unsecured Creditors’ Committee in this case.

RETENTION OF FORSHEY & PROSTOK, LLP

5. By this Application, the Debtor seeks Court approval, pursuant to section 327(a) of the Bankruptcy Code and Rule 2014(a) of the Bankruptcy Rules, to employ and retain Forshey

& Prostok, LLP (“F&P”) as its bankruptcy counsel as of the Petition Date. The Debtor requests that the Court approve the retention of F&P as of the Petition Date to perform the extensive legal services that will be necessary during this chapter 11 case.

6. The Debtor contemplates that F&P will render general legal services to the Debtor as needed throughout the course of this chapter 11 case, including litigation and bankruptcy assistance and advice. Certain of the legal services that F&P will render to the Debtor may include the following:

- (a) Advising the Debtor of its rights, powers and duties as debtor and debtor in possession continuing to operate and manage its business and assets;
- (b) Advising the Debtor concerning, and assisting in the negotiation and documentation of, agreements, debt restructurings, and related transactions;
- (c) Reviewing the nature and validity of liens asserted against the property of the Debtor and advising the Debtor concerning the enforceability of such liens;
- (d) Advising the Debtor concerning the actions that it might take to collect and to recover property for the benefit of the Debtor’s estate;
- (e) Preparing on behalf of the Debtor all necessary and appropriate applications, motions, pleadings, proposed orders, notices, schedules and other documents, and reviewing all financial and other reports to be filed in this chapter 11 case;
- (f) Advising the Debtor concerning, and preparing responses to, applications, motions, pleadings, notices and other papers that may be filed and served in this chapter 11 case;
- (g) Counseling the Debtor in connection with the formulation, negotiation and promulgation of one or more plans of reorganization and related documents;
- (h) Performing all other legal services for and on behalf of the Debtor that may be necessary or appropriate in the administration of this chapter 11 case or in the conduct of the bankruptcy case and the Debtor’s business, including advising and assisting the Debtor with respect to debt restructurings, asset dispositions, and general business, tax, finance, real estate and litigation matters; and

- (i) All such other legal services as may be necessary or appropriate in connection with the bankruptcy case.

7. The Debtor requires knowledgeable counsel to render the above-described essential professional services. The Debtor has selected F&P as its attorneys because of F&P's extensive experience in the bankruptcy and financial restructuring areas of law. F&P has significant expertise in the areas of bankruptcy, insolvency, corporate reorganization and debtor-creditor law. F&P's attorneys have played significant roles in many complex chapter 11 reorganizations. F&P has particular experience in chapter 11 cases and is well-qualified to represent the Debtor's interests in this case.

CO-COUNSEL FOR DEBTOR

8. The Debtor seeks to retain F&P as co-counsel for the Debtor, along with Loeb & Loeb LLP ("Loeb"). The Debtor believes that the employment and retention of co-counsel is necessary and appropriate under the circumstances.

9. Due to the size and complexity of the Debtor's Chapter 11 case, the Debtor believes it is appropriate to retain both a national and a local firm as its bankruptcy counsel. Loeb has a national practice and, in addition to its exceptional bankruptcy proficiency, brings to the table broad expertise in a number of disciplines. F&P has extensive experience with the local bankruptcy bar and rules of court and is available locally to attend expedited hearings and address issues on an immediate basis as they may arise. Further, either firm will be able to handle any Debtor matter if the other firm has a potential conflict of interest. The Debtor is informed and believes that duplication of effort between Loeb and F&P will be minimized, and that they will work closely together to ensure minimal duplication. In light of the size and complexity of this case, Debtor respectfully submits that the services of Loeb and F&P are necessary and appropriate to ensure that the Debtor's interests are protected. The Debtor

believes that pooling the resources of Loeb and F&P will foster the dual goals of efficient and effective representation and will work to the benefit of the Debtor, the Debtor's estate and creditors of the Debtor.

PROPOSED COMPENSATION OF FORSHEY & PROSTOK, LLP

10. Subject to the Court's approval, F&P will charge the Debtor for its legal services on an hourly basis at its customary hourly rates, which are subject to change from time-to-time. The current hourly rates for the professionals who are expected to be most involved in this matter are set forth below:

| <u>Professional</u> | <u>Fee Range</u> |
|----------------------------|-------------------------|
| Jeff P. Prostok | \$675.00 |
| Lynda L. Lankford | \$485.00 |
| Other Firm Attorneys | \$275.00 – \$625.00 |
| Paralegal/Legal Assistant | \$175.00 - \$255.00 |

11. In addition, F&P will seek reimbursement of expenses advanced on behalf of the Debtor according to its customary and usual practices. F&P will maintain detailed records of any actual and necessary or appropriate costs and expenses incurred in connection with the aforementioned legal services.

12. F&P intends to apply to the Court for compensation and reimbursement of expenses in accordance with applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules, and orders of this Court. In the event the Application is approved, the Debtor reserves the right to request the implementation of interim compensation procedures with respect to fees and expenses incurred by F&P in the course of its representation of the Debtor in this case; however, any such additional request will be made by separate motion.

DISCLOSURES

13. As set forth in the Declaration of Jeff P. Prostok (the "Declaration") to be filed herewith, F&P was retained by the Debtor prior to the Petition Date to provide legal advice to the Debtor, including restructuring and bankruptcy advice, and preparation of the requisite petitions, pleadings, exhibits, lists and schedules relating to the commencement of the Debtor's chapter 11 case. In connection with such engagement, the Debtor, through Loeb, paid to F&P a retainer in the amount of \$25,000.00 on January 28, 2020 (the "Retainer") prior to the bankruptcy filing. Of the total Retainer, \$19,936.00 was applied pre-petition to satisfy fees and expenses incurred prior to the Petition Date. The remainder of the Retainer in the amount of \$5,064.00 is being held in F&P's trust account.

14. F&P does not believe that it received any preferential payments, as its fees and expenses were billed against the Retainer in the ordinary course of business. If F&P is retained as counsel, and if any such transfers are determined to be preferential, and not subject to any defense or offset, F&P will return the voidable transfer and will waive any prepetition claim based upon the return of the voidable transfer.

15. To the best of the Debtor's knowledge, information and belief, other than as disclosed in the Declaration, F&P has no connection with the Debtor, its creditors or any other party in interest herein or their respective attorneys or accountants, the United States Trustee or any person employed in the Office of the United States Trustee. F&P has not represented any other party in interest with respect to any matter related to the Debtor.

16. To the best of the Debtor's knowledge, information and belief, F&P represents no interest adverse to the Debtor or to its estate in the matters for which F&P is proposed to be retained and is a "disinterested person" as defined in section 101(14) of the Bankruptcy Code.

The Debtor submits that its employment of F&P would be in the best interests of the Debtor, its estate and creditors.

17. The Declaration filed concurrently herewith has been executed on behalf of F&P in accordance with the provisions of sections 327, 328, 329 and 504 of the Bankruptcy Code, Bankruptcy Rule 2014, N.D. Tex. L.B.R. 2014-1 and 2016-1 and U.S. Trustee Guidelines. The Debtor's knowledge, information and belief regarding the matters set forth herein are based and made in reliance upon said Declaration.

18. No previous application for the relief requested herein has been made in this case.

NOTICE

19. Notice of this Application will be provided to (i) the Office of the United States Trustee for the Northern District of Texas; (ii) the holders of the twenty (20) largest unsecured claims against the Debtor; and (iii) parties requesting notice; all as set forth below. The Debtor submits that no further notice need be provided.

CONCLUSION

WHEREFORE, the Debtor respectfully requests that the Court enter an Order authorizing the employment and retention of Forshey & Prostok, LLP as attorneys for the Debtor, effective as of the Petition Date, on the terms set forth above, and granting the Debtor all other just and proper relief.

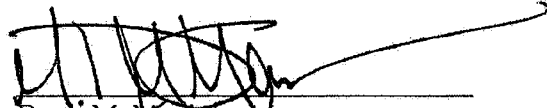
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Dated: February 11, 2020.

Respectfully submitted,

EVENTIDE CREDIT ACQUISITIONS, LLC

By:


Drew McManigle, Manager

Respectfully submitted,

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**PROPOSED COUNSEL FOR DEBTOR
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served upon the parties requesting service via this Court's ECF Electronic Notice and upon the parties on the attached Service List via United States Mail, first class postage prepaid, on February 11, 2020.

/s/ Jeff P. Prostok
Jeff P. Prostok

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